

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Patent Application of:)	Mail Stop Appeal Brief - Patents
)	
Shawn WIEDERIN)	Group Art Unit: 3694
)	
Application No.: 09/950,025)	Examiner: M. Cheung
)	
Filed: September 12, 2001)	
)	
For: SYSTEMS AND METHODS FOR)	
MONETARY TRANSACTIONS)	
BETWEEN WIRED AND WIRELESS)	
DEVICES)	

APPEAL BRIEF

U.S. Patent and Trademark Office
Customer Window, Mail Stop Appeal Brief – Patents
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

Sir:

This Appeal Brief is submitted in response to the final Office Action, dated August 19, 2008, and in support of the Notice of Appeal, filed November 19, 2008. This Appeal Brief is also being submitted in response to the Notice of Panel Decision from Pre-Appeal Brief Review, dated January 12, 2009.

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I. REAL PARTY IN INTEREST

The real party in interest of the present application, solely for purposes of identifying and avoiding potential conflicts of interest by board members due to working in matters in which the member has a financial interest, is Verizon Communications Inc. and its subsidiary companies, which currently include Verizon Business Global, LLC (formerly MCI, LLC) and Cellco Partnership (doing business as Verizon Wireless, and which includes as a minority partner affiliates of Vodafone Group Plc). Verizon Communications Inc. or one of its subsidiary companies is an assignee of record of the present application.

II. RELATED APPEALS AND INTERFERENCES

Appellant is unaware of any related appeals, interferences or judicial proceedings.

III. STATUS OF CLAIMS

Claims 2-6, 8, 9, 12-16, 18, 19, 22-26, 28, 29, 32-36, 38, 39, and 41-45 have been rejected. Claims 1, 7, 10, 11, 17, 20, 21, 27, 30, 31, 37, and 40 were previously canceled without prejudice or disclaimer. Claims 2-6, 8, 9, 12-16, 18, 19, 22-26, 28, 29, 32-36, 38, 39, and 41-45 are the subject of the present appeal and are reproduced in the Claim Appendix attached hereto.

IV. STATUS OF AMENDMENTS

No amendment was filed subsequent to the final Office Action, dated August 19, 2008. Appellant filed a Request for Reconsideration on October 17, 2008. A subsequent Advisory Action, dated October 28, 2008, indicated that the Request for Reconsideration has been considered, but did not place the application in condition for allowance. Appellant also filed a Pre-Appeal Brief Request for Review on June 5, 2008. A subsequent Notice of Panel Decision from Pre-Appeal Brief Review, dated January 12, 2009, indicated that there is at least one actual issue for appeal.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The following summary of the presently claimed subject matter indicates certain portions of the specification (including the drawings) that provide examples of embodiments of elements of the claimed subject matter. It is to be understood that other portions of the specification not cited herein may also provide examples of embodiments of elements of the claimed subject matter. It is also to be understood that the indicated examples are merely examples, and the scope of the claimed subject matter includes alternative embodiments and equivalents thereof. References herein to the specification are thus intended to be exemplary and not limiting.

Claim 42 recites a monetary transaction system (e.g., 100, Fig. 1) comprising a payment processing system (e.g., 500, Fig. 1) configured to receive payee identification information, user information, and amount information from a wireless device associated with the user, where the user information further includes information identifying the wireless device (e.g., page 6, lines 6-29; page 9, line 16 to page 10, line 2), identify a first account associated with the user based on the user information including the received wireless device identification information (e.g., page 7, line 24 to page 8, line 11), identify a second account associated with the payee based on the payee identification information (e.g., page 8, lines 12-25), transfer funds based on the amount information between the first account and the second account (e.g., page 8, lines 12-25), and send a notification of the transfer of the funds to the wireless device (e.g., page 8, lines 12-25), the notification including an itemization of goods or services associated with the transfer (e.g., page 8, lines 12-25).

Claim 43 recites a method for performing a monetary transaction, comprising receiving payee identification information, user information, and amount information from a wireless device associated with a user (e.g., S160, Fig. 3; page 6, lines 6-29; page 9, line 25 to page 10,

line 2); identifying a first account associated with the user based on the user information (e.g., page 7, line 24 to page 8, line 11); prompting a payee device associated with the payee, for information relating to a second account associated with the payee based on the payee identification information (e.g., S270, Fig. 3; page 7, line 24 to page 8, line 11; page 10, lines 14-15); and transferring funds based on the amount information between the first account and the second account (e.g., S290, Fig. 3; page 8, lines 12-25; page 10, lines 17-20).

Claim 44 recites a computer-readable medium containing instructions for controlling at least one processor (e.g., 500, Fig. 1; page 6, lines 15-29) to perform a method for conducting a monetary transaction, the computer-readable medium comprising one or more instructions for receiving transaction information from a wireless device, the wireless device being associated with a user, wherein the transaction information includes at least payee identification information, user information, and amount information (e.g., page 6, lines 6-29); one or more instructions for identifying a first account associated with the user based on the transaction information (e.g., page 7, line 24 to page 8, line 11); one or more instructions for prompting a payee device associated with the payee, for information relating to a second account associated with the payee based on the transaction information (e.g., page 7, line 24 to page 8, line 11); and one or more instructions for transferring funds based on the transaction information between the first account and the second account (e.g., page 8, lines 12-25).

Claim 45 recites a network device (e.g., 500, Fig. 1) comprising a first component (e.g., 510, Fig. 1) configured to receive monetary transaction information from a device (e.g., 200, Fig. 1), the monetary transaction information including at least payee identification information, user information, device identification information, and amount information (e.g., page 6, lines 6-29); a second component (e.g., 540, Fig. 1) configured to identify a first account associated with a

payer and a second account associated with a payee based on the received monetary transaction information including the received device identification information (e.g., page 7, line 24 to page 8, line 11); a third component (e.g., 580, Fig. 1) configured to transfer funds between the first account and the second account (e.g., page 8, lines 12-25); and a fourth component (e.g., 580, Fig. 1) configured to notify a wireless device associated with the payer of the transfer of funds, the notification including an itemization of goods or services associated with the transfer (e.g., page 8, lines 12-25).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

A. Claims 12-16, 18, 19, 22-26, 28, 29, 43, and 44 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent Application Publication No. 2002/0016765 to Sacks (hereinafter "SACKS").

B. Claims 2-6, 8, 9, 32-36, 38, 39, 41, 42, and 45 stand rejected under 35 U.S.C. § 103(a) as unpatentable over SACKS in view of the Examiner's Official Notice (hereinafter "OFFICIAL NOTICE"), and further in view of U.S. Patent Application Publication No. 2005/0086164 to Kim et al. (hereinafter "KIM").

VII. ARGUMENT

A. The rejection of claims 12-16, 18, 19, 22-26, 28, 29, 43, and 44 under 35 U.S.C. § 102(e) based on SACKS should be reversed.

The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention always rests upon the Examiner. In re Oetiker, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

A proper rejection under 35 U.S.C. § 102 requires that a single reference teach every aspect of the claimed invention. Any feature not directly taught must be inherently present. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 2 U.S.P.Q.2d 1051 (Fed. Cir. 1987).

1. Claims 12-16, 18, 19, and 43.

Independent claim 43 is directed to a method for performing a monetary transaction. The method includes receiving payee identification information, user information, and amount information from a wireless device associated with a user; identifying a first account associated with the user based on the user information; prompting a payee device associated with the payee, for information relating to a second account associated with the payee based on the payee identification information; and transferring funds based on the amount information between the first account and the second account. SACKS does not disclose or suggest this combination of features.

For example, SACKS does not disclose or suggest receiving payee identification information, user information, and amount information from a wireless device associated with a user. The Examiner relies on paragraphs 0019 and 0038-0044 as well as claims 1, 5, and 8 of SACKS for allegedly disclosing this feature (final Office Action, p. 3). Appellant respectfully

disagrees with the Examiner's interpretation of SACKS.

At paragraph 0019, SACKS discloses:

FIG. 1 is a block diagram depicting one embodiment of the invention. In FIG. 1, buyer 102 first connects to seller or seller site 104 to make a purchase or arrange some other form of electronic transaction. Buyer 102 may employ virtually any type of communication or computing device, such as a computer (e.g., portable, handheld, desktop), a smart phone (e.g., WAP (Wireless Access Protocol)), a two-way pager, etc. Similarly, seller 104 may comprise any number, type or form of computer systems or web sites, using any type of application, web or communication server.

This section of SACKS discloses that buyers and sellers may use any type of computing device, such as desktop computers, handheld computers, or smart phones, to facilitate the payment processing system of SACKS. Contrary to the Examiner's interpretation, this section of SACKS does not disclose or suggest receiving payee identification information, and amount information from a wireless device associated with a user, as recited in claim 43. In fact, paragraph 0019 does not disclose or suggest receiving any information from a wireless device, except perhaps a connection request received by a seller site 104.

Paragraphs 0038-0044 of SACKS disclose the overall flow for performing the third party payment processing using the system described in SACKS. More specifically, this section of SACKS discloses that a buyer first visits a seller's system (e.g., web site), selects a good or service to purchase, and initiates payment for the transaction by selecting a link on the seller's system. The buyer is then connected to the third party payment processor. The third party payment processor then identifies whether the buyer is already registered with the third party payment processor and, if so, the buyer's identity is verified, using, for example, an account name/password associated with the buyer. If the buyer does not have an account, one may be established.

Once verified, SACKS' payment processor elicits payment from the buyer by prompting

for a credit card or bank account as well as additional data, such as name address, telephone number, etc., that may be required to validate an identity for the financial transaction. Details of the transaction are then displayed and the transaction is processed upon selection by the buyer. At this point, funds are removed from the buyer's account and deposited in the seller's account with the system.

Contrary to the Examiner's allegations, this section of SACKS does not disclose or suggest receiving payee identification information and amount information from a wireless device associated with a user, as recited in claim 43. Rather, SACKS appears to disclose that this information is received from the payee upon redirection of the buyer from the seller's web site to the third party processor. Nowhere does SACKS disclose or suggest that payee identification information or amount information is received from a wireless device associated with a user, as recited in claim 43.

Claim 1 of SACKS recites:

A method of processing an electronic payment from a payor to a payee at a third party, comprising: receiving at the third party a first connection from the payor, wherein a second connection between the payor and the payee is terminated when said first connection is received; creating an account for the payor with the third party for facilitating electronic payments, if said account does not exist; and electronically transferring funds from the payor to the payee.

This claim of SACKS merely discloses creating an account for the payer with a third party if an account for the payer does not exist and electronically transferring funds from the payer to the payee. This claim of SACKS does not disclose or suggest receiving payee identification information, user information, and amount information from a wireless device associated with a user, as recited in claim 43. In fact, this claim of SACKS does not mention receiving any information from a wireless device associated with a user.

Claims 5 and 8 of SACKS recite:

The method of claim 1, further comprising receiving, with said first connection, details of an electronic transaction between the payor and the payee.

The method of claim 5, wherein said details include an identifier of a payee account with the third party.

Claim 5 of SACKS merely discloses receiving details of an electronic transaction. This claim of SACKS does not disclose or suggest receiving payee identification information, user information, and amount information from a wireless device associated with a user, as recited in claim 43. In fact, this claim of SACKS does not mention receiving any information from a wireless device associated with a user. Moreover, SACKS specifically discloses that the "details of an electronic transaction" include a network address to which to forward the payer after the electronic funds are transferred (claim 6), a network address to which to forward the payer if the payer cancels the electronic funds transfer (claim 7), or an identifier of a payee account with the third party (claim 8). Neither these claims nor any other section of SACKS discloses or suggests receiving payee identification information, user information, and amount information from a wireless device associated with a user, as recited in claim 43.

Further with respect to the above feature of claim 43, the Examiner alleges:

Sacks teaches a user using wireless device such as handheld device, smart phone, etc. conducting purchase and payment transactions (see ¶ 19-20), and the transaction information comprising payee identification information (see Sacks page 5 claim 8) and amount information (see ¶ 44)

(final Office Action, p. 2). Appellant respectfully disagrees with the Examiner's interpretation of SACKS.

Paragraphs 0019 and 0044, and claim 8 of SACKS are addressed above. For at least the reasons given above, none of these sections of SACKS discloses or suggests receiving payee

identification information, user information, and amount information from a wireless device associated with a user, as recited in claim 43.

At paragraph 0020, SACKS discloses:

When buyer 102 makes a product selection or otherwise agrees to the terms of a transaction with seller 104, he or she is redirected to payment processor 106. This redirection may occur, for example, when the buyer indicates a desire to consummate the transaction (e.g., to pay for a purchase or to checkout), selects a payment option, selects a link offered by the seller, etc.

This section of SACKS disclose that when a buyer makes a product selection (or agrees to the terms of a transaction with a seller), the buyer is redirected to a payment processor. This section of SACKS does not disclose or suggest receiving payee identification information, and amount information from a wireless device associated with a user, as recited in claim 43. In fact, paragraph 0019 of SACKS does not disclose or suggest receiving any information from a wireless device.

The Examiner has not explained how any of the above sections of SACKS can reasonably be construed as disclosing receiving payee identification information, and amount information from a wireless device associated with a user, as recited in claim 43. Accordingly, the Examiner has not met the initial burden of establishing a proper case of anticipation.

For at least the foregoing reasons, Appellant submits that claim 43 is not anticipated by SACKS. Accordingly, Appellant respectfully requests that the rejection of claim 43 under 35 U.S.C. § 102(e) based on SACKS be reversed.

Claim 12-16, 18, and 19 depend from claim 43. Therefore, these claims are not anticipated by SACKS for at least the reasons set forth above with respect to claim 43. Accordingly, Appellant respectfully requests that the rejection of claims 12-16, 18, and 19 under 35 U.S.C. § 102(e) based on SACKS be reversed.

2. Claims 22-26, 28, 29, and 44.

Independent claim 44 is directed to a computer-readable medium containing instructions for controlling at least one processor to perform a method for conducting a monetary transaction. The computer-readable medium includes one or more instructions for receiving transaction information from a wireless device, the wireless device being associated with a user, wherein the transaction information includes at least payee identification information, user information, and amount information; one or more instructions for identifying a first account associated with the user based on the transaction information; one or more instructions for prompting a payee device associated with the payee, for information relating to a second account associated with the payee based on the transaction information; and one or more instructions for transferring funds based on the transaction information between the first account and the second account. SACKS does not disclose or suggest this combination of features.

For example, SACKS does not disclose or suggest one or more instructions for receiving transaction information from a wireless device, the wireless device being associated with a user, wherein the transaction information includes at least payee identification information, user information, and amount information. The Examiner relies on paragraphs 0019 and 0038-0044 as well as claims 1, 5, and 8 of SACKS for allegedly disclosing this feature (final Office Action, p. 3). Appellant respectfully disagrees with the Examiner's interpretation of SACKS.

Paragraph 0019 of SACKS is reproduced above. This section of SACKS discloses that buyers and sellers may use any type of computing device, such as desktop computers, handheld computers, or smart phones, to facilitate the payment processing system of SACKS. Contrary to the Examiner's interpretation, this section of SACKS does not disclose or suggest one or more instructions for receiving at least payee identification information, and amount information from

a wireless device associated with a user, as recited in claim 44. In fact, paragraph 0019 does not disclose or suggest receiving any information from a wireless device, except perhaps a connection request received by a seller site 104. Thus, this section of SACKS does not disclose or suggest one or more instructions for receiving transaction information from a wireless device, the wireless device being associated with a user, wherein the transaction information includes at least payee identification information, user information, and amount information, as recited in claim 44.

Paragraphs 0038-0044 of SACKS disclose the overall flow for performing the third party payment processing using the system described in SACKS. More specifically, this section of SACKS discloses that a buyer first visits a seller's system (e.g., web site), selects a good or service to purchase, and initiates payment for the transaction by selecting a link on the seller's system. The buyer is then connected to the third party payment processor. The third party payment processor then identifies whether the buyer is already registered with the third party payment processor and, if so, the buyer's identity is verified, using, for example, an account name/password associated with the buyer. If the buyer does not have an account, one may be established.

Once verified, SACKS' payment processor elicits payment from the buyer by prompting for a credit card or bank account as well as additional data, such as name address, telephone number, etc., that may be required to validate an identity for the financial transaction. Details of the transaction are then displayed and the transaction is processed upon selection by the buyer. At this point, funds are removed from the buyer's account and deposited in the seller's account with the system.

Contrary to the Examiner's allegations, this section of SACKS does not disclose or

suggest one or more instructions for receiving payee identification information and amount information from a wireless device associated with a user, as recited in claim 44. Rather, SACKS appears to disclose that this information is received from the payee upon redirection of the buyer from the seller's web site to the third party processor. Nowhere does SACKS disclose or suggest that payee identification information or amount information is received from a wireless device associated with a user. Thus, this section of SACKS does not disclose or suggest one or more instructions for receiving transaction information from a wireless device, the wireless device being associated with a user, wherein the transaction information includes at least payee identification information, user information, and amount information, as recited in claim 44.

Claim 1 of SACKS is reproduced above. This claim of SACKS merely discloses creating an account for the payer with a third party if an account for the payer does not exist and electronically transferring funds from the payer to the payee. This claim of SACKS does not disclose or suggest one or more instructions receiving payee identification information, user information, and amount information from a wireless device associated with a user, as recited in claim 44. In fact, this claim of SACKS does not mention receiving any information from a wireless device associated with a user. Thus, this section of SACKS does not disclose or suggest one or more instructions for receiving transaction information from a wireless device, the wireless device being associated with a user, wherein the transaction information includes at least payee identification information, user information, and amount information, as recited in claim 44.

Claims 5 and 8 of SACKS are reproduced above. Claim 5 of SACKS merely discloses receiving details of an electronic transaction. This claim of SACKS does not disclose or suggest

one or more instructions for receiving payee identification information, user information, and amount information from a wireless device associated with a user, as recited in claim 44. In fact, this claim of SACKS does not mention receiving any information from a wireless device associated with a user. Moreover, SACKS specifically discloses that the "details of an electronic transaction" include a network address to which to forward the payer after the electronic funds are transferred (claim 6), a network address to which to forward the payer if the payer cancels the electronic funds transfer (claim 7), or an identifier of a payee account with the third party (claim 8). Neither these claims nor any other section of SACKS discloses or suggests one or more instructions for receiving transaction information from a wireless device, the wireless device being associated with a user, wherein the transaction information includes at least payee identification information, user information, and amount information, as recited in claim 44.

Further with respect to the above feature of claim 44, the Examiner alleges:

Sacks teaches a user using wireless device such as handheld device, smart phone, etc. conducting purchase and payment transactions (see ¶ 19-20), and the transaction information comprising payee identification information (see Sacks page 5 claim 8) and amount information (see ¶ 44)

(final Office Action, p. 2). Appellant respectfully disagrees with the Examiner's interpretation of SACKS.

Paragraphs 0019 and 0044, and claim 8 of SACKS are addressed above. For at least the reasons given above, none of these sections of SACKS, whether taken alone or in any reasonable combination, discloses or suggests one or more instructions for receiving transaction information from a wireless device, the wireless device being associated with a user, wherein the transaction information includes at least payee identification information, user information, and amount information, as recited in claim 44.

Paragraph 0020 of SACKS is reproduced above. This section of SACKS disclose that when a buyer makes a product selection (or agrees to the terms of a transaction with a seller), the buyer is redirected to a payment processor. This section of SACKS does not disclose or suggest one or more instructions for receiving payee identification information, and amount information from a wireless device associated with a user, as recited in claim 44. In fact, paragraph 0020 of SACKS does not disclose or suggest receiving any information from a wireless device. Thus, this section of SACKS does not disclose or suggest one or more instructions for receiving transaction information from a wireless device, the wireless device being associated with a user, wherein the transaction information includes at least payee identification information, user information, and amount information, as recited in claim 44.

The Examiner has not explained how any of the above sections of SACKS can reasonably be construed as disclosing one or more instructions for receiving transaction information from a wireless device, the wireless device being associated with a user, wherein the transaction information includes at least payee identification information, user information, and amount information, as recited in claim 44. Accordingly, the Examiner has not met the initial burden of establishing a proper case of anticipation.

For at least the foregoing reasons, Appellant submits that claim 44 is not anticipated by SACKS. Accordingly, Appellant respectfully requests that the rejection of claim 44 under 35 U.S.C. § 102(e) based on SACKS be reversed.

Claims 22-26, 28, and 29 depend from claim 44. Therefore, these claims are not anticipated by SACKS for at least the reasons set forth above with respect to claim 44. Accordingly, Appellant respectfully requests that the rejection of claims 22-26, 28, and 29 under 35 U.S.C. § 102(e) based on SACKS be reversed.

B. The rejection of claims 2-6, 8, 9, 32-36, 38, 39, 41, 42, and 45 under 35 U.S.C. § 103(a) based on SACKS, OFFICIAL NOTICE, and KIM should be reversed.

1. Claims 2-6, 8, 9, and 42.

Independent claim 42 is directed to a monetary transaction system that includes a payment processing system configured to receive payee identification information, user information, and amount information from a wireless device associated with the user, where the user information further includes information identifying the wireless device, identify a first account associated with the user based on the user information including the received wireless device identification information, identify a second account associated with the payee based on the payee identification information, transfer funds based on the amount information between the first account and the second account, and send a notification of the transfer of the funds to the wireless device, the notification including an itemization of goods or services associated with the transfer. SACKS and KIM, whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features. Moreover, the Examiner's Official Notice does not remedy the deficiencies in the disclosures of SACKS and KIM.

For example, SACKS and KIM do not disclose or suggest a payment processing system configured to receive payee identification information, user information, and amount information from a wireless device associated with the user, where the user information further includes information identifying the wireless device. The Examiner relies on paragraphs 0019 and 0038-0044 as well as claims 1, 5, and 8 of SACKS for allegedly disclosing this feature (final Office Action, p. 3). Appellant respectfully disagrees with the Examiner's interpretation of SACKS.

Paragraph 0019 of SACKS is reproduced above. This section of SACKS discloses that

buyers and sellers may use any type of computing device, such as desktop computers, handheld computers, or smart phones, to facilitate the payment processing system of SACKS. Contrary to the Examiner's interpretation, this section of SACKS does not disclose or suggest receiving payee identification information, and amount information from a wireless device associated with a user, as recited in claim 42. In fact, paragraph 0019 of SACKS does not disclose or suggest receiving any information from a wireless device, except perhaps a connection request received by a seller site 104. Thus, this section of SACKS does not disclose or suggest a payment processing system configured to receive payee identification information, user information, and amount information from a wireless device associated with the user, where the user information further includes information identifying the wireless device, as recited in claim 42.

Paragraphs 0038-0044 of SACKS disclose the overall flow for performing the third party payment processing using the system described in SACKS. More specifically, this section of SACKS discloses that a buyer first visits a seller's system (e.g., web site), selects a good or service to purchase, and initiates payment for the transaction by selecting a link on the seller's system. The buyer is then connected to the third party payment processor. The third party payment processor then identifies whether the buyer is already registered with the third party payment processor and, if so, the buyer's identity is verified, using, for example, an account name/password associated with the buyer. If the buyer does not have an account, one may be established.

Once verified, SACKS' payment processor elicits payment from the buyer by prompting for a credit card or bank account as well as additional data, such as name address, telephone number, etc., that may be required to validate an identity for the financial transaction. Details of the transaction are then displayed and the transaction is processed upon selection by the buyer.

At this point, funds are removed from the buyer's account and deposited in the seller's account with the system.

Contrary to the Examiner's allegations, this section of SACKS does not disclose or suggest receiving payee identification information and amount information from a wireless device associated with a user, as recited in claim 42. Rather, SACKS appears to disclose that this information is received from the payee upon redirection of the buyer from the seller's web site to the third party processor. Nowhere does SACKS disclose or suggest that payee identification information or amount information is received from a wireless device associated with a user. Thus, this section of SACKS does not disclose or suggest a payment processing system configured to receive payee identification information, user information, and amount information from a wireless device associated with the user, where the user information further includes information identifying the wireless device, as recited in claim 42.

Claim 1 of SACKS is reproduced above. This claim of SACKS merely discloses creating an account for the payer with a third party if an account for the payer does not exist and electronically transferring funds from the payer to the payee. This claim of SACKS does not disclose or suggest receiving payee identification information, user information, and amount information from a wireless device associated with a user, as recited in claim 42. In fact, this claim of SACKS does not mention receiving any information from a wireless device associated with a user. Thus, this claim of SACKS cannot disclose or suggest a payment processing system configured to receive payee identification information, user information, and amount information from a wireless device associated with the user, where the user information further includes information identifying the wireless device, as recited in claim 42.

Claims 5 and 8 of SACKS are reproduced above. Claim 5 of SACKS merely discloses

receiving details of an electronic transaction. This claim of SACKS does not disclose or suggest receiving payee identification information, user information, and amount information from a wireless device associated with a user, as recited in claim 42. In fact, this claim of SACKS does not mention receiving any information from a wireless device associated with a user. Moreover, SACKS specifically discloses that the "details of an electronic transaction" include a network address to which to forward the payer after the electronic funds are transferred (claim 6), a network address to which to forward the payer if the payer cancels the electronic funds transfer (claim 7), or an identifier of a payee account with the third party (claim 8). Neither these claims nor any other section of SACKS discloses or suggests a payment processing system configured to receive payee identification information, user information, and amount information from a wireless device associated with the user, where the user information further includes information identifying the wireless device, as recited in claim 42.

The Examiner has not explained how any of the above sections of SACKS can reasonably be construed as disclosing a payment processing system configured to receive payee identification information, user information, and amount information from a wireless device associated with the user, where the user information further includes information identifying the wireless device, as recited in claim 42. Accordingly, the Examiner has not met the initial burden of establishing a *prima facie* case of obviousness with respect to claim 42.

Examiner's Official Notice and the disclosure of KIM do not remedy the above deficiency in the disclosure of SACKS.

SACKS, the Examiner's Official Notice, and KIM, whether taken alone or in any reasonable combination, do not further disclose or suggest that the payment processor is configured to identify a first account associated with the user based on the user information

including the received wireless device identification information, as also recited in claim 42.

The Examiner relies on paragraphs 0040-0044 of SACKS for allegedly disclosing this feature (final Office Action, p. 5). Appellant disagrees with the Examiner's interpretation of SACKS.

Paragraphs 0040-0044 of SACKS disclose that the third party payment processor identifies whether the buyer is already registered with the third party payment processor and, if so, the buyer's identity is verified, using, for example, an account name/password associated with the buyer. If the buyer does not have an account, one may be established.

Once verified, SACKS' payment processor elicits payment from the buyer by prompting for a credit card or bank account as well as additional data, such as name address, telephone number, etc., that may be required to validate an identity for the financial transaction. Details of the transaction are then displayed and the transaction is processed upon selection by the buyer. At this point, funds are removed from the buyer's account and deposited in the seller's account with the system.

Contrary to the Examiner's allegations, this section of SACKS does not disclose or suggest that the third party payment processor is configured to identify a first account (from which funds are transferred) associated with the user based on the user information including the received wireless device identification information, as would be required of SACKS based on the Examiner's interpretation of claim 42. Rather, SACKS specifically discloses that the buyer is prompted to identify a credit card or bank account for paying for the immediate transaction and/or for funding an account for the buyer with the payment processor (see, for example, paragraph 0043). SACKS does not disclose or suggest a payment processing system that is configured to identify a first account (from which funds are transferred) associated with the user based on the user information including the received wireless device identification information,

as recited in claim 42.

The Examiner's Official Notice and the disclosure of KIM do not remedy the above deficiency in the disclosure of SACKS.

For at least the foregoing reasons, Appellant submits that claim 42 is patentable over SACKS, the Examiner's Official Notice, and KIM, whether taken alone or in any reasonable combination. Accordingly, Appellants respectfully request that the rejection of claim 42 under 35 U.S.C. § 103(a) based on SACKS, the Examiner's Official Notice, and KIM be reversed.

Claims 2-6, 8, and 9 depend from claim 42. Therefore, these claims are patentable over SACKS, the Examiner's Official Notice, and KIM, whether taken alone or in any reasonable combination, for at least the reasons set forth above with respect to claim 42. Accordingly, Appellant respectfully requests that the rejection of claims 2-6, 8, and 9 under 35 U.S.C. § 103(a) based on SACKS, the Examiner's Official Notice, and KIM be reversed.

2. Claims 32-36, 38, 39, and 45.

Independent claim 45 is directed to a network device that includes a first component configured to receive monetary transaction information from a device, the monetary transaction information including at least payee identification information, user information, device identification information, and amount information; a second component configured to identify a first account associated with a payer and a second account associated with a payee based on the received monetary transaction information including the received device identification information; a third component configured to transfer funds between the first account and the second account; and a fourth component configured to notify a wireless device associated with the payer of the transfer of funds, the notification including an itemization of goods or services associated with the transfer. SACKS and KIM, whether taken alone or in any reasonable

combination, do not disclose or suggest this combination of features. Moreover, the Examiner's Official Notice does not remedy the deficiencies in the disclosures of SACKS and KIM.

For example, SACKS and KIM do not disclose or suggest a first component configured to receive monetary transaction information from a device, the monetary transaction information including at least payee identification information, user information, device identification information, and amount information. The Examiner relies on paragraphs 0019 and 0038-0044 as well as claims 1, 5, and 8 of SACKS for allegedly disclosing this feature (final Office Action, p. 3). Appellant respectfully disagrees with the Examiner's interpretation of SACKS.

Paragraph 0019 of SACKS is reproduced above. This section of SACKS discloses that buyers and sellers may use any type of computing device, such as desktop computers, handheld computers, or smart phones, to facilitate the payment processing system of SACKS. Contrary to the Examiner's interpretation, this section of SACKS does not disclose or suggest receiving payee identification information and amount information, as recited in claim 45. In fact, paragraph 0019 of SACKS does not disclose or suggest receiving any information, except perhaps a connection request received by a seller site 104. Thus, this section of SACKS does not disclose or suggest a first component configured to receive monetary transaction information from a device, the monetary transaction information including at least payee identification information, user information, device identification information, and amount information, as recited in claim 45.

Paragraphs 0038-0044 of SACKS disclose the overall flow for performing the third party payment processing using the system described in SACKS. More specifically, this section of SACKS discloses that a buyer first visits a seller's system (e.g., web site), selects a good or service to purchase, and initiates payment for the transaction by selecting a link on the seller's

system. The buyer is then connected to the third party payment processor. The third party payment processor then identifies whether the buyer is already registered with the third party payment processor and, if so, the buyer's identity is verified, using, for example, an account name/password associated with the buyer. If the buyer does not have an account, one may be established.

Once verified, SACKS' payment processor elicits payment from the buyer by prompting for a credit card or bank account as well as additional data, such as name address, telephone number, etc., that may be required to validate an identity for the financial transaction. Details of the transaction are then displayed and the transaction is processed upon selection by the buyer. At this point, funds are removed from the buyer's account and deposited in the seller's account with the system.

Contrary to the Examiner's allegations, this section of SACKS does not disclose or suggest receiving payee identification information and amount information from a device, as recited in claim 45. Rather, SACKS appears to disclose that this information is received from the payee upon redirection of the buyer from the seller's web site to the third party processor. This section of SACKS does not disclose or suggest a first component configured to receive monetary transaction information from a device, the monetary transaction information including at least payee identification information, user information, device identification information, and amount information, as recited in claim 45.

Claim 1 of SACKS is reproduced above. This claim of SACKS merely discloses creating an account for the payer with a third party if an account for the payer does not exist and electronically transferring funds from the payer to the payee. This claim of SACKS does not disclose or suggest receiving payee identification information, user information, device

identification information, and amount information from a device, as recited in claim 45. Thus, this claim of SACKS cannot disclose or suggest a first component configured to receive monetary transaction information from a device, the monetary transaction information including at least payee identification information, user information, device identification information, and amount information, as recited in claim 45.

Claims 5 and 8 of SACKS are reproduced above. Claim 5 of SACKS merely discloses receiving details of an electronic transaction. This claim of SACKS does not disclose or suggest receiving payee identification information, user information, device identification information, and amount information from a device, as recited in claim 45. Moreover, SACKS specifically discloses that the "details of an electronic transaction" include a network address to which to forward the payer after the electronic funds are transferred (claim 6), a network address to which to forward the payer if the payer cancels the electronic funds transfer (claim 7), or an identifier of a payee account with the third party (claim 8). Neither these claims nor any other section of SACKS discloses or suggests a first component configured to receive monetary transaction information from a device, the monetary transaction information including at least payee identification information, user information, device identification information, and amount information, as recited in claim 45.

The Examiner has not explained how any of the above sections of SACKS can reasonably be construed as disclosing a first component configured to receive monetary transaction information from a device, the monetary transaction information including at least payee identification information, user information, device identification information, and amount information, as recited in claim 45. Accordingly, the Examiner has not met the initial burden of establishing a *prima facie* case of obviousness with respect to claim 45.

Examiner's Official Notice and the disclosure of KIM do not remedy the above deficiency in the disclosure of SACKS.

SACKS, the Examiner's Official Notice, and KIM, whether taken alone or in any reasonable combination, do not further disclose or suggest a second component configured to identify a first account associated with a payer and a second account associated with a payee based on the received monetary transaction information including the received device identification information, as also recited in claim 45. The Examiner relies on paragraphs 0040-0044 of SACKS for allegedly disclosing this feature (final Office Action, p. 5). Appellant disagrees with the Examiner's interpretation of SACKS.

Paragraphs 0040-0044 of SACKS disclose that the third party payment processor identifies whether the buyer is already registered with the third party payment processor and, if so, the buyer's identity is verified, using, for example, an account name/password associated with the buyer. If the buyer does not have an account, one may be established.

Once verified, SACKS' payment processor elicits payment from the buyer by prompting for a credit card or bank account as well as additional data, such as name address, telephone number, etc., that may be required to validate an identity for the financial transaction. Details of the transaction are then displayed and the transaction is processed upon selection by the buyer. At this point, funds are removed from the buyer's account and deposited in the seller's account with the system.

Contrary to the Examiner's allegations, this section of SACKS does not disclose or suggest a second component configured to identify a first account (from which funds are transferred) associated with a payer and a second account associated with a payee based on the received monetary transaction information including the received device identification

information, as recited in claim 45. Rather, SACKS specifically discloses that the buyer is prompted to identify a credit card or bank account for paying for the immediate transaction and/or for funding an account for the buyer with the payment processor (see, for example, paragraph 0043). SACKS does not disclose or suggest a second component configured to identify a first account (from which funds are transferred) associated with a payer and a second account associated with a payee based on the received monetary transaction information including the received device identification information, as recited in claim 45.

The Examiner's Official Notice and the disclosure of KIM do not remedy the above deficiency in the disclosure of SACKS.

For at least the foregoing reasons, Appellant submits that claim 45 is patentable over SACKS, the Examiner's Official Notice, and KIM, whether taken alone or in any reasonable combination. Accordingly, Appellants respectfully request that the rejection of claim 45 under 35 U.S.C. § 103(a) based on SACKS, the Examiner's Official Notice, and KIM be reversed.

Claims 32-36, 38, and 39 depend from claim 45. Therefore, these claims are patentable over SACKS, the Examiner's Official Notice, and KIM, whether taken alone or in any reasonable combination, for at least the reasons set forth above with respect to claim 45. Accordingly, Appellant respectfully requests that the rejection of claims 32-36, 38, and 39 under 35 U.S.C. § 103(a) based on SACKS, the Examiner's Official Notice, and KIM be reversed.

VIII. CONCLUSION

In view of the foregoing arguments, Appellant respectfully solicits the Honorable Board to reverse the Examiner's rejections of claims 2-6, 8, 9, 12-16, 18, 19, 22-26, 28, 29, 32-36, 38, 39, and 41-45.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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IX. CLAIM APPENDIX

1. (canceled)
2. The system of claim 42, wherein the payment processing system includes a profile determination device that determines a user profile and a payee profile.
3. The system of claim 2, wherein the user profile comprises at least one of financial information, device information, security information, historical information, transaction information or authorized recipient information.
4. The system of claim 2, wherein the profile determination device determines a payee profile based on the on at least one of a look-up technique, identification information or another profile database.
5. The system of claim 42, wherein the payment processing system includes a transaction database that records information about the transfer of the funds.
6. The system of claim 42, wherein the wireless device includes at least one of a personal digital assistant (PDA), a cellular telephone, a wireless pager, a PC tablet, a television, a personal computer, a wireless e-mail device, a wireless telephone, an appliance, a refrigerator, a washing machine, or a distributed network access device.
7. (canceled)

8. The system of claim 42, wherein the user information comprises at least one of personal information about the user, a name, an age, an address, a city, a state, a phone, a fax, an e-mail address or a wireless phone number.

9. The system of claim 42, wherein the payment processing system includes a security device that monitors passwords, encrypts information or monitors user information.

10. (canceled)

11. (canceled)

12. The method of claim 43, further comprising determining a user profile and a payee profile.

13. The method of claim 12, wherein the user profile comprises at least one of financial information, device information, security information, historical information, transaction information or authorized recipient information.

14. The method of claim 12, wherein the payee profile is based on the information relating to a second account associated with the payee.

15. The method of claim 43, further comprising recording information about the

transfer of funds.

16. The method of claim 43, wherein the wireless device includes at least one of a personal digital assistant (PDA), a cellular telephone, a wireless pager, a PC tablet, a television, a personal computer, a wireless e-mail device, a wireless telephone, an appliance, a refrigerator, a washing machine, or a distributed network access device.

17. (canceled)

18. The method of claim 43, wherein the received user information comprises at least one of personal information about the user, a name, an age, an address, a city, a state, a phone, a fax, an e-mail address or a wireless phone number.

19. The method of claim 43, further comprising at least one of monitoring passwords, encrypting information and monitoring user information.

20. (canceled)

21. (canceled)

22. The computer-readable medium of claim 44, wherein the method further comprises determining a user profile and a payee profile.

23. The computer-readable medium of claim 22, wherein the user profile comprises at least one of financial information, device information, security information, historical information, transaction information or authorized recipient information.

24. The computer-readable medium of claim 22, wherein the payee profile is based on the information relating to a second account associated with the payee.

25. The computer-readable medium of claim 44, wherein the method further comprises recording information about the transfer of the funds.

26. The computer-readable medium of claim 44, wherein the wireless device includes at least one of a personal digital assistant (PDA), a cellular telephone, a wireless pager, a PC tablet, a television, a personal computer, a wireless e-mail device, a wireless telephone, an appliance, a refrigerator, a washing machine, or a distributed network access device.

27. (canceled)

28. The computer-readable medium of claim 44, wherein the transaction information comprises at least one of personal information about the user, a name, an age, an address, a city, a state, a phone, a fax, an e-mail address or a wireless phone number.

29. The computer-readable medium of claim 44, wherein the method further comprises at least one of monitoring passwords, encrypting information or monitoring user

information.

30. (canceled)

31. (canceled)

32. The network device of claim 45, further comprising a profile determination device that determines a payer profile and a payee profile.

33. The network device of claim 32, wherein the payer profile comprises at least one of financial information, device information, security information, historical information, transaction information or authorized recipient information.

34. The network device of claim 32, wherein the profile determination device determines a payee profile based on the information relating to a second account associated with the payee.

35. The network device of claim 45, further comprising a transaction database that records information about the transfer of the funds.

36. The network device of claim 45, wherein the device includes at least one of a household appliance, a television, a vending machine, a refrigerator, a washing machine, a heater, an air conditioner, or a refrigerator.

37. (canceled)

38. The network device of claim 45, wherein the monetary transaction information comprises at least one of personal information about the payer, a name, an age, an address, a city, a state, a phone, a fax, an e-mail address or a wireless phone number.

39. The network device of claim 45, further comprising a security device that monitors passwords, encrypts information or monitors payer information.

40. (canceled)

41. The network device of claim 45, wherein the device identification information comprises one or more of a serial number, an electronic number identifier or an IP address associated with the device.

42. A monetary transaction system comprising:
a payment processing system configured to:
receive payee identification information, user information, and amount information from a wireless device associated with the user, where the user information further includes information identifying the wireless device,
identify a first account associated with the user based on the user information including the received wireless device identification information,

identify a second account associated with the payee based on the payee identification information,

transfer funds based on the amount information between the first account and the second account, and

send a notification of the transfer of the funds to the wireless device, the notification including an itemization of goods or services associated with the transfer.

43. A method for performing a monetary transaction, comprising:
receiving payee identification information, user information, and amount information from a wireless device associated with a user,
identifying a first account associated with the user based on the user information;
prompting a payee device associated with the payee, for information relating to a second account associated with the payee based on the payee identification information; and
transferring funds based on the amount information between the first account and the second account.

44. A computer-readable medium containing instructions for controlling at least one processor to perform a method for conducting a monetary transaction, the computer-readable medium comprising:

one or more instructions for receiving transaction information from a wireless device, the wireless device being associated with a user, wherein the transaction information includes at least payee identification information, user information, and amount information;

one or more instructions for identifying a first account associated with the user

based on the transaction information;

one or more instructions for prompting a payee device associated with the payee, for information relating to a second account associated with the payee based on the transaction information; and

one or more instructions for transferring funds based on the transaction information between the first account and the second account.

45. A network device comprising:

a first component configured to receive monetary transaction information from a device, the monetary transaction information including at least payee identification information, user information, device identification information, and amount information;

a second component configured to identify a first account associated with a payer and a second account associated with a payee based on the received monetary transaction information including the received device identification information;

a third component configured to transfer funds between the first account and the second account; and

a fourth component configured to notify a wireless device associated with the payer of the transfer of funds, the notification including an itemization of goods or services associated with the transfer.

Appeal Brief

Application No. 09/950,025
Attorney's Docket No. COS01007

X. EVIDENCE APPENDIX

None

Appeal Brief

Application No. 09/950,025
Attorney's Docket No. COS01007

XI. RELATED PROCEEDINGS APPENDIX

None

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:)	Mail Stop Appeal Brief - Patents
)	
Shawn WIEDERIN)	Group Art Unit: 3694
)	
Application No.: 09/950,025)	Examiner: M. Cheung
)	
Filed: September 12, 2001)	
)	
For: SYSTEMS AND METHODS FOR)	
MONETARY TRANSACTIONS)	
BETWEEN WIRED AND WIRELESS)	
DEVICES)	

LETTER REGARDING PAYMENT OF APPEAL BRIEF FEE

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Sir:

Please note that the Appeal Brief fee was previously paid on January 5, 2006. However, the Commissioner is hereby authorized to charge the \$40.00 difference between the current Appeal Brief filing and the Appeal Brief filing done on January 5, 2006 (\$500.00 was charged at that time) to Deposit Account No. 50-1070. Given this, the Applicant will not be making a separate payment through the EFS system for this current Appeal Brief filing.

Respectfully submitted,

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